

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3 BEFORE THE HONORABLE CARL W. HOFFMAN, MAGISTRATE JUDGE
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4 UNITED STATES OF AMERICA, :
5 :
6 Plaintiff, : No. 2:16-cr-100-GMN-CWH
7 :
8 -vs- : October 2, 2018
9 :
10 JAN ROUVEN FUECHTENER, : Las Vegas, Nevada
11 :
12 Defendant. :
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TRANSCRIPT OF MOTION HEARING

APPEARANCES:

FOR THE PLAINTIFF: CHRISTOPHER BURTON
Assistant United States Attorney
Las Vegas, Nevada

FOR THE DEFENDANT: KAREN CONNOLLY
Attorney at Law
Las Vegas, Nevada

ALSO PRESENT: RICHARD SCHONFELD
Attorney at Law
Las Vegas, Nevada

Transcribed by: Margaret E. Griener, CCR #3, FCRR
Official Reporter
400 South Virginia Street
Reno, Nevada 89501

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 2, 2018, 3:01 P.M.

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4 THE CLERK: This is the time set for United
5 States of America versus Jan Rouven Fuechtener, case number
6 2:16-cr-100-GMN-CWH.

7 Counsel, please enter your appearances.

8 MR. BURTON: Good afternoon, your Honor.

9 Your Honor, Christopher Burton on behalf of the
10 United States for Eli Roohani.

11 MS. CONNOLLY: Karen Connolly and Jan Rouven
12 Fuechtener who is present at counsel table.

13 THE COURT: Good afternoon, counsel. Good
14 afternoon, Mr. Fuechtener.

15 Here we're on number 299, it is defense
16 counsel's motion to withdraw as counsel. I know that this
17 case has had a firm setting for sentencing in November, and --

18 MR. BURTON: Correct, your Honor.

19 THE COURT: And other than that, does the
20 government have anything to add?

21 MR. BURTON: Your Honor, I think we laid it out
22 in our response to the motion to reconsider which is also
23 pending.

24 Your Honor, at this point the government is sort
25 of at a standstill or a crossroads as to who Mr. Fuechtener

1 would like to represent him in this matter. We're getting
2 different stories from different sources.

3 So to the extent that, you know, I suspect I'll
4 be excused from the courtroom, I would ask this Court to
5 canvass the defendant on whether he authorized the filing of
6 the motion to reconsider, and if the defendant is prepared to
7 affirm whom it is that he wishes to represent him in this
8 matter, I would appreciate that.

9 THE COURT: Okay. All right. Thanks. You can
10 step out then. I'm going to seal the record.

11 MR. BURTON: Thank you.

12 MR. SCHONFELD: Your Honor, Richard Schonfeld.

13 I'd request permission to remain because I also
14 have possession of privileged communication as it relates
15 to --

16 THE COURT: You need to come up to a microphone.

17 MR. SCHONFELD: Your Honor, this is Richard
18 Schonfeld.

19 As the Court is aware, we've specially appeared
20 on behalf of the defendant. I would ask for permission to
21 remain in the courtroom because I also have privileged
22 communication between Mr. Fuechtener and myself relative to
23 the issue of being authorized to file the motion for
24 reconsideration that obviously I don't want to have to present
25 in a public forum.

1 THE COURT: Ms. Connolly, what's your view on
2 that?

3 MS. CONNOLLY: May we have the Court's
4 indulgence? We need to figure out what -- I mean, I think
5 maybe -- I think it's up to him, really, if he wants to
6 have -- I mean, his conversations with me are privileged. I
7 am not even allowed to disclose them with Mr. Schonfeld
8 without my client's permission so --

9 THE COURT: Yeah, so we've got a couple of
10 privileges going on. Who are you, sir, in the back?

11 UNIDENTIFIED SPEAKER: (Inaudible.)

12 THE COURT: Okay. All right. I'll allow you to
13 stay here.

14 MS. CONNOLLY: So --

15 THE COURT: Well, let's do it one step at a
16 time. Let me talk to Ms. Connolly and Mr. Fuechtener first,
17 and then we'll go from there.

18 (Refer to a separate sealed transcript of
19 proceedings.)
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1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 2, 2018, 3:39 P.M.

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4 THE CLERK: The record has been unsealed, your
5 Honor.

6 THE COURT: Mr. Burton, let me bring you
7 up-to-date.

8 The request to withdraw by Ms. Connolly is
9 denied, she will remain as CJA counsel.

10 Additionally I had a discussion with
11 Mr. Schonfeld in trying to figure out what happens to this
12 motion for reconsideration because that may -- because the
13 fact that there are two lawyers working on this case may have
14 an impact on the way the government views how this case is
15 being prosecuted. You mentioned as much. And the defended, I
16 should say.

17 And Mr. Fuechtener is in a difficult situation
18 because he wants to have the funds available that he thinks
19 he's entitled to have in order to retain counsel and to hire
20 experts and to do other things that he needs to do to defend
21 himself.

22 He has no choice, though, if he doesn't try to
23 get this money, and so that's why he is requesting
24 reconsideration. In other words, he's not requesting
25 reconsideration in order to rattle the government's cage, he's

1 simply saying, "I want to have the opportunity to get that
2 money so that I can improve my defense."

3 I think it's a reasonable position for him to
4 take. If he has money that's not the result of ill-gotten
5 gains, then that money should be reasonably available to a
6 defendant under the Sixth Amendment because you don't want to
7 take away his ability to defend himself with his own money
8 basically that's being reserved now for the possible
9 forfeiture, the fines, or whatever it might be, as part of the
10 sentencing.

11 So he's between a rock and a hard place here.
12 He wants to get that money, he doesn't want to cause a problem
13 with the government, but -- and yet this discussion is causing
14 problems with Ms. Connolly trying to represent him.

15 And so that's what we've talked about here, and
16 I wanted to make the record clear that the request to withdraw
17 is denied, and Mr. Schonfeld is authorized to proceed with the
18 request for reconsideration on the release of funds, and
19 Mr. Schonfeld -- I mean, Mr. Fuechtener explained why that was
20 important, and so I guess I'll leave it at that.

21 Any need for clarification or questions for me?

22 MR. BURTON: So if I understand you correctly,
23 your Honor, Ms. Connolly is at this point counsel of record.

24 THE COURT: CJA.

25 MR. BURTON: And Mr. Schonfeld is permitted to

1 proceed with the motion to reconsider.

2 THE COURT: Yes. He's made an appearance as
3 special counsel for the special specific purpose of getting
4 these funds released, and I view that as part of the defense
5 strategy overall.

6 And so, yes, they're authorized -- Schonfeld is
7 authorized to file this motion for reconsideration.

8 MR. BURTON: Understood, your Honor, thank you.

9 THE COURT: Okay. Ms. Connolly, any need for
10 clarification?

11 MS. CONNOLLY: No, your Honor.

12 THE COURT: All right. Thank you very much.

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15 I certify that the foregoing is a correct
16 transcript from the record of proceedings
in the above-entitled matter.

17 /s/Margaret E. Griener 5/3/2019
18 Margaret E. Griener, CCR #3, FCRR
19 Official Reporter
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